IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.T.SANKARAN

WEDNESDAY, THE 10TH OCTOBER 2007 / 18TH ASWINA 1929

WP(C).No. 30067 of 2007(D)

PETITIONER:

KADAR, S/O.MOIDU, CHETTISSERY HOUSE,
CHEMMANNUR REPRESENTED BY HIS POWER OF ATTORNEY
HOLDER, RAJAN S/O.KANDARUKUTTY KANDAMPULLY HOUSE,
PUNNAYOORKULAM THRISSUR.

BY ADV. SRI.RAJIT
SRI.RANJIT BABU

RESPONDENTS:
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1. DEPUTY CHIEF ENGINEER , K.S.E.B,
ELECTRICAL CIRCLE, THRISSUR.

2. DEPUTY CHIEF ENGINEER APTS (HQ),
VIGILANCE WING, VYDHYUTHI BHAVAN,
THIRUVANANTHAPURAM.

BY STANDING COUNSEL SRI.P.P.THAJUDEEN

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 10/10/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.T. SANKARAN, J.

W.P.(C) NO. 30067 OF 2007

Dated this the 10th day of October, 2007

JUDGMENT

Petitioner is the owner of building No.XI/707 of Punnayurkulam Grama Panchayat in Thrissur District. The building was rented out, according to the petitioner, to one Rajan, who is conducting a hotel in that building. On 4.1.2006, the Officials of the Electricity Board conducted an inspection in the premises. As per Ext.P3 notice dated 4.1.2006, the petitioner was informed that the electricity connection was disconnected as it was found that there was theft of electrical energy. Along with Ext.P3, Ext.P4 demand was also raised for a sum of Rs.97,690/-. Against Ext.P4 demand, petitioner filed an appeal before the Deputy Chief Engineer APTS (HQ) Vigilance Wing, Thiruvananthapuram. The appeal was transferred to the first respondent. It is stated that the petitioner remitted one-third of the amount demanded as per Ext.P4 and electricity connection was restored. The appeal before the second respondent was posted for hearing on 26.2.2007. On that day, the petitioner did not appear. At the request of the petitioner, on a subsequent date, the appeal was posted for hearing on 21.4.2007. On that date also, the petitioner did not appear. The first respondent rejected the appeal as per Ext.P5 order, dated 15.9.2007. The petitioner was directed to pay the amount demanded within fifteen days. Petitioner did not pay the amount within fifteen days and, therefore, the electricity connection to the building was disconnected. Ext.P5 order is challenged in this Writ Petition.

2. Heard the learned counsel for the petitioner and the Standing Counsel for the respondents. From Ext.P5 order, it is clear that the petitioner did not appear when the case was posted on 26.2.2007 and 21.4.2007. However, the fact remains that his appeal was dismissed not on the merits but on the ground of default. Justice demands that the appeal filed by the petitioner is disposed of on the merits. However, this should not be without any condition.

3. Taking into account the facts and circumstances of the case and the submissions made by the counsel appearing for the parties, I am inclined to grant an opportunity to the petitioner to prosecute the appeal on merits on condition that he shall deposit a sum of Rs.30,000/- within a period of two weeks. If the sum of Rs.30,000/- is deposited within two weeks, Ext.P5 order would stand set aside. The first respondent shall thereafter dispose of the appeal within a period of three weeks from the date of deposit. It is made clear that if the full amount as demanded is paid by the petitioner, the electricity connection shall be restored immediately.

The Writ Petition is disposed of as above.

Issue certified copy of the judgment today itself.

(K.T.SANKARAN)
Judge

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